

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SENATE BILL 1033

AN ACT

AMENDING SECTIONS 28-1387, 28-1442, 28-1559 AND 28-3319, ARIZONA REVISED
STATUTES; RELATING TO DRIVER LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-1387, Arizona Revised Statutes, is amended to
3 read:

4 28-1387. Prior convictions: alcohol or other drug screening.
5 education and treatment: license suspension:
6 supervised probation: civil liability: procedures

7 A. The court shall allow the allegation of a prior conviction or any
8 other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or
9 an act in another jurisdiction that if committed in this state would be a
10 violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days
11 before the date the case is actually tried and may allow the allegation of a
12 prior conviction or any other pending charge of a violation of section
13 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if
14 committed in this state would be a violation of section 28-1381, 28-1382 or
15 28-1383 filed at any time before the date the case is actually tried if this
16 state makes available to the defendant when the allegation is filed a copy of
17 any information obtained concerning the prior conviction or other pending
18 charge. Any conviction may be used to enhance another conviction
19 irrespective of the dates on which the offenses occurred within the
20 eighty-four month provision. For the purposes of this article, an order of a
21 juvenile court adjudicating a person delinquent is equivalent to a
22 conviction.

23 B. In addition to any other penalties prescribed by law, the judge
24 shall order a person who is convicted of a violation of section 28-1381 or
25 28-1382 to complete alcohol or other drug screening that is provided by a
26 facility approved by the department of health services or a probation
27 department. If a judge determines that the person requires further alcohol
28 or other drug education or treatment, the person may be required pursuant to
29 court order to obtain alcohol or other drug education or treatment under the
30 court's supervision from an approved facility. The judge may review an
31 education or treatment determination at the request of the state, the
32 defendant or the probation officer or on the judge's initiative. The person
33 shall pay the costs of the screening, education or treatment unless, after
34 considering the person's ability to pay all or part of the costs, the court
35 waives all or part of the costs. If a person is referred to a screening,
36 education or treatment facility, the facility shall report to the court
37 whether the person has successfully completed the screening, education or
38 treatment program.

39 C. After a person who is sentenced pursuant to section 28-1381,
40 subsection I has served twenty-four consecutive hours in jail or after a
41 person who is sentenced pursuant to section 28-1381, subsection K or section
42 28-1382, subsection D or F has served forty-eight consecutive hours in jail
43 and after the court receives confirmation that the person is employed or is a
44 student, the court may provide in the sentence that the defendant, if the
45 defendant is employed or is a student and can continue the defendant's

1 employment or schooling, may continue the employment or schooling for not
2 more than twelve hours a day nor more than five days a week. The person
3 shall spend the remaining day, days or parts of days in jail until the
4 sentence is served and shall be allowed out of jail only long enough to
5 complete the actual hours of employment or schooling.

6 D. Unless the license of a person convicted under section 28-1381 or
7 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the
8 department on receipt of the abstract of conviction of a violation of section
9 28-1381 or 28-1382 shall suspend the license of the affected person for not
10 less than ninety consecutive days.

11 E. When the department receives notification that the person meets the
12 criteria provided in section 28-1385, subsection F, the department shall
13 suspend the driving privileges of the person for not less than thirty
14 consecutive days and shall restrict the driving privileges of the person for
15 not less than sixty consecutive additional days to travel between any of the
16 following:

17 1. The person's place of employment and residence and during specified
18 periods of time while at employment.

19 2. The person's place of residence and the person's secondary or
20 postsecondary school, according to the person's employment or educational
21 schedule.

22 3. The person's place of residence and a screening, education or
23 treatment facility for scheduled appointments.

24 4. The person's place of residence and the office of the person's
25 probation officer for scheduled appointments.

26 F. If a person is placed on probation for violating section 28-1381 or
27 28-1382, the probation shall be supervised unless the court finds that
28 supervised probation is not necessary or the court does not have supervisory
29 probation services.

30 G. Any political subdivision processing or using the services of a
31 person ordered to perform community restitution pursuant to section 28-1381
32 or 28-1382 does not incur any civil liability to the person ordered to
33 perform community restitution as a result of these activities unless the
34 political subdivision or its agent or employee acts with gross negligence.

35 H. IF A PERSON FAILS TO COMPLETE THE COMMUNITY RESTITUTION ORDERED
36 PURSUANT TO SECTION 28-1381, SUBSECTION K OR 28-1382, SUBSECTION F, THE COURT
37 MAY ORDER ALTERNATIVE SANCTIONS IF IT DEEMS IT MORE APPROPRIATE. UNLESS THE
38 ALTERNATIVE SANCTIONS ARE ORDERED, THE PERSON SHALL NOT BE ISSUED A NEW
39 DRIVER LICENSE PURSUANT TO SECTION 28-3319, SUBSECTION D.

40 ~~H.~~ I. Except for another violation of this article, the state shall
41 not dismiss a charge of violating any provision of this article unless there
42 is an insufficient legal or factual basis to pursue that charge.

1 Sec. 2. Section 28-1442, Arizona Revised Statutes, is amended to read:
2 28-1442. Driving under the influence; records; reporting

3 A. The administrative office of the courts shall report to the
4 governor's office of highway safety by September 1 of each year for the
5 previous fiscal year:

6 1. The number of complaints issued charging a violation that include
7 both sections 28-1381 and 28-1382.

8 2. The number of complaints issued charging a violation that include
9 either section 28-1381 or 28-1382.

10 B. By September 1 of each year the motor vehicle division shall report
11 to the governor's office of highway safety the number of ignition interlock
12 devices ordered to be installed pursuant to sections 28-1381, 28-1382 and
13 28-1383 for the previous fiscal year.

14 C. By September 1 of each year each county attorney and municipal
15 prosecutor shall report to the governor's office of highway safety the number
16 of cases dismissed pursuant to section 28-1387, subsection ~~H~~ I for the
17 previous fiscal year.

18 D. By October 1 of each year the governor's office of highway safety
19 shall report the information collected for the previous fiscal year pursuant
20 to subsections A, B and C of this section to the president of the senate and
21 the speaker of the house of representatives.

22 Sec. 3. Section 28-1559, Arizona Revised Statutes, is amended to read:
23 28-1559. Traffic case records; abstract of record; reports

24 A. Each magistrate, judge or hearing officer of a court shall:

25 1. Keep or cause to be kept a record of each traffic complaint or
26 other legal form of traffic charge deposited with or presented to the court
27 or its traffic violations bureau.

28 2. Keep a record of each official action by the court or its traffic
29 violations bureau in reference to each traffic complaint or other legal form
30 of traffic charge deposited with or presented to the court or its traffic
31 violations bureau, including but not limited to a record of:

32 (a) Each conviction, forfeiture of bail or deposit, judgment of
33 acquittal or civil adjudication.

34 (b) The amount of the civil penalty, fine or forfeiture resulting from
35 each traffic complaint deposited with or presented to the court or traffic
36 violations bureau.

37 B. Within ten days after the conviction, judgment or forfeiture of
38 bail or deposit of a person on a charge of violating chapter 3 or 4 of this
39 title or this chapter or any other law regulating the operation of vehicles
40 on highways, each magistrate of the court or clerk of the court of record in
41 which the conviction or judgment was had or bail or deposit was forfeited
42 shall prepare and immediately forward to the department an abstract of the
43 record of the court covering the case in which the person either:

44 1. Was convicted.

45 2. Was adjudicated to have committed a civil traffic violation.

1 3. Forfeited bail or deposit.

2 C. The person required to prepare the abstract shall certify that it
3 is true and correct.

4 D. A report is not required for a conviction or civil adjudication
5 involving the illegal parking or standing of a vehicle.

6 E. The abstract shall be made on a form furnished or in a manner
7 prescribed by the department and shall include:

8 1. The name and address of the party charged.

9 2. The number, if any, of the driver license of the party charged.

10 3. The registration number of the vehicle involved.

11 4. The nature of the offense or civil traffic violation.

12 5. The date of the hearing, the plea, the judgment or whether bail or
13 deposit was forfeited.

14 6. The amount of the fine, civil penalty or forfeiture.

15 7. THE LENGTH OF TIME OF ANY INCARCERATION ORDERED.

16 F. Each court of record shall also forward a like report to the
17 department on the conviction of a person of homicide or aggravated assault
18 resulting from the operation of a motor vehicle or any other felony in the
19 commission of which a motor vehicle was used. To facilitate the preparation
20 of the report, the sentencing minute entry that is issued by the court shall
21 indicate if the person was convicted of an offense that required the
22 mandatory revocation of a driver license pursuant to section 28-3304,
23 subsection A, paragraph 1, 3, 4, 5 or 6.

24 G. The department shall keep all abstracts received under this section
25 for inspection as required by law.

26 H. Each judge, referee, hearing officer, probation officer or other
27 person responsible for the disposition of cases involving traffic offenses or
28 civil violations committed by persons under eighteen years of age shall:

29 1. Keep a full record of each case in which the person is charged with
30 a violation of chapter 3 or 4 of this title or this chapter or any other law
31 regulating the operation of vehicles on highways.

32 2. Report the offense or civil violation to the department at its
33 office in Phoenix not more than thirty days after the date on which it was
34 committed, except that a report is not required for parking violations or if
35 it is found that the offense or civil violation was not committed.

36 I. The report required by subsection H of this section shall:

37 1. Be made on a form furnished or in a manner prescribed by the
38 department.

39 2. Contain:

40 (a) All necessary information as to the identity of the offender.

41 (b) The citing or arresting agency.

42 (c) The date and nature of the offense or civil violation.

43 (d) The date of the hearing, the plea, the judgment or whether bail or
44 deposit was forfeited.

45 (e) The amount of the fine, civil penalty or forfeiture.

1 J. Failure, refusal or neglect of a judicial officer to comply with
2 this section is misconduct in office and grounds for removal from office.

3 Sec. 4. Section 28-3319, Arizona Revised Statutes, is amended to read:

4 28-3319. Action after license suspension, revocation or denial
5 for driving under the influence or refusal of test;
6 ignition interlock device requirement; definition

7 A. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
8 or 28-3322, the license of a driver or the driving privilege of a nonresident
9 is suspended or revoked, the department shall not terminate the suspension or
10 revocation or issue a special ignition interlock restricted driver license,
11 if applicable, pursuant to chapter 4, article 3.1 of this title until the
12 person provides proof of financial responsibility pursuant to chapter 9,
13 article 3 of this title.

14 B. If, pursuant to section 28-1321, 28-1381, 28-1382, 28-1383, 28-3320
15 or 28-3322, an unlicensed resident is denied a license or permit to operate a
16 motor vehicle, the department shall not issue a license or permit until the
17 person provides proof of financial responsibility pursuant to chapter 9,
18 article 3 of this title.

19 C. If a person whose license or driving privilege is suspended or
20 revoked pursuant to section 28-1321, 28-1381, 28-1382 or 28-1383 is ordered,
21 pursuant to section 28-1381, 28-1382 or 28-1383, to attend alcohol or other
22 drug screening, education or treatment, the department shall not either:

23 1. Terminate the suspension or issue a special ignition interlock
24 restricted driver license, if applicable, pursuant to chapter 4, article 3.1
25 of this title until the person provides proof from the treatment facility
26 that the person has completed or is participating satisfactorily in alcohol
27 or other drug screening, education or treatment.

28 2. Issue a new license or a special ignition interlock restricted
29 driver license, if applicable, pursuant to chapter 4, article 3.1 of this
30 title to operate a motor vehicle after the revocation until the person
31 provides proof from the facility that the person has completed the court
32 ordered program.

33 D. IF A PERSON WHOSE LICENSE OR DRIVING PRIVILEGE IS REVOKED PURSUANT
34 TO SECTION 28-1381 OR 28-1382 IS ORDERED, PURSUANT TO SECTION 28-1381,
35 SUBSECTION K OR SECTION 28-1382, SUBSECTION F, TO PERFORM COMMUNITY
36 RESTITUTION, THE DEPARTMENT SHALL NOT ISSUE THE PERSON A NEW DRIVER LICENSE
37 UNTIL THE PERSON PROVIDES TO THE DEPARTMENT PROOF FROM THE COURT THAT THE
38 PERSON HAS COMPLETED THE COMMUNITY RESTITUTION OR THE ALTERNATIVE SANCTIONS
39 ORDERED BY THE COURT.

40 ~~D.~~ E. On receipt of a report of conviction from a court, the
41 department shall require any motor vehicle the convicted person operates to
42 be equipped with a functioning certified ignition interlock device and the
43 convicted person to meet the requirements prescribed in section 28-1461 for
44 twelve months if any of the following applies:

1 1. The department determines that within a period of eighty-four
2 months a person is convicted of a second or subsequent violation of section
3 28-1381 with a prior conviction of a violation of section 28-1381 or 28-1382
4 or an act in another jurisdiction that if committed in this state would be a
5 violation of section 28-1381 or 28-1382.

6 2. The person is sentenced pursuant to section 28-1381 or SECTION
7 28-1382, subsection D, except that if the person's alcohol concentration is
8 0.20 or more, the certified ignition interlock device is required for
9 eighteen months.

10 3. The person is sentenced pursuant to section 28-1382, subsection F,
11 except that if the person's alcohol concentration is 0.20 or more, the
12 certified ignition interlock device is required for twenty-four months.

13 4. The conviction is for a violation of section 28-1383, subsection A,
14 paragraph 1, 2 or 4 or paragraph 3, subdivision (b).

15 ~~F.~~ F. The requirement prescribed in subsection ~~D~~ E of this section
16 begins on the date of reinstatement of the person's driving privilege
17 following a suspension or revocation or on the date of the department's
18 receipt of the report of conviction, whichever occurs later.

19 ~~F.~~ G. A person who is required to equip a motor vehicle with a
20 certified ignition interlock device pursuant to subsection ~~D~~ E of this
21 section shall comply with chapter 4, article 5 of this title.

22 H. BEGINNING JANUARY 1, 2009, NOTWITHSTANDING ANY OTHER LAW, IF A
23 PERSON IS SENTENCED TO A TERM OF INCARCERATION FOR A MOVING VIOLATION AND
24 THAT PERSON'S DRIVER LICENSE IS SUSPENDED AS A RESULT OF THE CONVICTION, THE
25 PERIOD OF SUSPENSION BEGINS AFTER COMPLETION OF THE TERM OF INCARCERATION AND
26 THE DEPARTMENT SHALL NOT REINSTATE THAT PERSON'S DRIVER LICENSE UNTIL THE
27 PERSON PROVIDES PROOF THAT THE PERSON HAS BEEN RELEASED FROM CONFINEMENT FOR
28 AT LEAST THE PRESCRIBED PERIOD OF SUSPENSION.

29 ~~G.~~ I. For the purposes of this section, "certified ignition interlock
30 device" has the same meaning prescribed in section 28-1301.

31 Sec. 5. Effective date

32 Section 28-1559, Arizona Revised Statutes, as amended by this act, is
33 effective from and after December 31, 2008.